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No. 96-1397

IN THE

Supreme Court of the United States

October Term, 1996

THE VILLAGE OF AIRMONT, and its Municipal Officers,

Petitioners,

-against-

RABBI YITZCHOK LEBLANC-STERNBERG, CHANIE LEBLANC-STERNBERG, FRED WALFISH, LEWIS KAMMAN, PARK AVENUE SYNAGOGUE, INC., UNITED STATES OF AMERICA,

Respondents.

On Petition for a Writ of Certiorari
to the United States Court of Appeals for the Second Circuit

Brief In Opposition for Rabbi Yitzchock LeBlanc-Sternberg, Chanie LeBlanc-Sternberg, Fred Walfish, Lewis Kamman, and Park Avenue Synagogue, Inc., Respondents

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QUESTIONS PRESENTED

Did the court below (1) violate the doctrine of federalism in granting injunctive relief where the underlying constitutional wrong it sought to remedy consisted of the enactment of a zoning code with a discriminatory animus; (2) exceed its equitable powers in granting injunctive relief where the harm addressed, prospectively, was the constant threat to the rights of Respondents under the Free Exercise Clause?

LIST OF PARTIES

The parties are accurately stated in the caption of the Petition for Writ of Certiorari. Respondent Park Avenue Synagogue, Inc., is a non-profit and non-stock corporation that has no parent or subsidiary companies.

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OPINIONS BELOW

Petitioner has accurately referenced the opinion of the Second Circuit Court of Appeals for which review is sought. The first opinion of the Second Circuit related to this case was published at 67 F.3d 412 (2nd Cir.), *cert. denied*, __U.S.__ (1996).

STATEMENT OF JURISDICTION

These respondents do not dispute the jurisdictional grounds set-forth by the petitioner.

STATEMENT OF THE CASE

The private Respondents are members of Respondent Park Avenue Synagogue, which meets in the home of Respondent Rabbi Yitzchok LeBlanc-Sternberg. His home was

originally situated within the corporate limits of the Town of Ramapo, New York. Subsequent to the incorporation of the Petitioner, the home became situated within the limits of the Village of Airmont.

Orthodox Judaism as determined by the Court of Appeals, requires "a relatively high number of local houses of worship. Daily prayer is required, and the saying of certain prayers and the reading from the Torah on the Sabbath require the presence of a minyan -- a quorum of ten males over the age of 13. Orthodox Jews are forbidden to use cars or other means of transportation during religious holidays and the weekly Sabbath; thus adherents are required to walk to their houses of worship." *LeBlanc-Sternberg v. Fletcher*, 67 F.3d 412, 417 (2nd Cir.) *cert. denied*, __U.S.__ (1996).

Members of a local group, the Airmont Civic Association ("ACA"), were outraged by the Town of Ramapo's use of the Home Professional Office ("HPO") provisions of the Town's zoning code to accommodate the home worship needs of the Orthodox Jewish population in residential areas. A drive was launched by the ACA and its supporters to incorporate their own village, specifically "for control over zoning in connection with the desire to keep Orthodox and Hasidic Jews out of the Airmont community." 67 F.3d 418.

The incorporation of Airmont as a Village was finalized in 1991, and a slate of officers who were ACA members was selected. These officers were opposed to home worship by Orthodox Jews. 67 F.3d 420-421. Five days after incorporation, Respondents filed the instant action alleging violation of the Free Exercise of Religion rights of respondents under the First Amendment, pursuant to 42 U.S.C. § 1983, and alleging violation of 42 U.S.C. § 3601 *et seq*. Subsequently, Respondent United States filed its action under the Fair Housing Act against Petitioner. Both actions were consolidated for trial.

In 1993 Airmont enacted a zoning code, which was identical to the Ramapo code, except for changes to the HPO section. The Airmont code prohibited "any activities that

come into a residential area so as to detract from the residential character of the area," and gave standing to any "aggrieved person" to request that the Board of Zoning Appeals interpret whether any disputed use was in violation of the section. 67 F.3d 420.

At trial, the jury found that Petitioner had violated the rights of these Respondents to the free exercise of their religion, under 42 U.S.C. § 1983, as well as their rights under 42 U.S.C. § 3601 *et seq.* However, in the trial of the Government action the district court found that the Village had taken no injurious action against the Orthodox citizens save only to pass the subject zoning code which the trial court found "arguably could be taken as a signal for a different interpretation" than the accommodating solution arrived at by the Town of Ramapo, but noted that it was equally likely that Airmont would avoid such an interpretation in light of the almost certain litigation that would follow. The trial court, in motions after verdict, struck down the jury's verdict on the motion of Petitioner under Fed. R. Civ. P. 50(b), incorporating its memorandum decision in the Government's case as a basis for its decision against these Respondents. 67 F.3d 423-424, 427-431.

On appeal, the Court of Appeals for the Second Circuit reversed the trial court.

The Court of Appeals reversed the trial court's finding that the jury verdict was unsupported by the evidence, and determined that there was ample evidence to support the existence of both a violation of the private respondents' Free Exercise rights and their rights under the Fair Housing Act. The court further determined that the jury verdict collaterally estopped the trial court from finding against the United States in its Fair Housing action, and it remanded both cases for further proceedings stating:

> . . . [T]he Private plaintiffs and the government were entitled to relief . . . The private plaintiff's action is remanded for the entry of judgment awarding

> those plaintiffs nominal damages and such injunctive and other relief as may be appropriate . . . The judgment dismissing the government's action . . . is reversed, and the matter is remanded for the entry of a declaratory judgment in favor of the government and for such injunctive and other relief as may be appropriate.
>
> 67 F.3d 435.

Following remand, the district court ordered the private respondents and the government respondent to file separate proposals for relief. Petitioner's response to the differing plans of relief from the private plaintiffs and the United States was a objection to any relief being granted. Petitioner did not submit any alternative plan of relief.

After briefing by the parties, the district court entered an Order and Judgment on April 25, 1996 and a supplemental Order on April 29. Pet. App. 1a-18a. The Orders were accompanied by a Memorandum Decision.

In its Order and Judgment the District Court, *inter-alia:* (1) declared the Petitioner to have violated the Fair Housing Act; (2) enjoined the Petitioners, its agents and those acting in concern with them, from (a) engaging in conduct having the "purpose or effect" of perpetuating or promoting religious discrimination, including any interpretations of the HPO provisions of the zoning code so as to "hinder, prevent, or prohibit persons from assembling in residential dwellings for the purposes of group prayers," (b) discriminating in matters of housing on the basis of religion; (c) interfering with persons who are exercising their rights to equal housing opportunity; or taking any action that denies housing on the basis of religion. *Id.*

The district court also ordered that the Petitioner modify its zoning code, most notably to: (a) provide a statement that the code was not to be used to hinder persons from

"peacefully assembling in residential dwellings solely for the purposes of individual or group prayer; " (b) include a provision that the presence of worshipers walking to or from a house to worship does not "constitute a change in the residential character of the neighborhood" (thus preventing the Petitioner from determining that Orthodox Jews who must walk to the Rabbi's home for prayer on the Sabbath change the "residential character" of the area, automatically disqualifying the home from being part of a Home Professional Office (HPO) under the "HPO" section of the code); (c) to allow group worship in homes located in residential areas as a matter of right; (d) to clarify that the lot size and other restrictions on a "place of worship" would only apply to free-standing synagogues or churches, and that such structures would be allowed in all residential areas, and (e) to delete the last two sentences of the HPO provision which gave broad standing to any "aggrieved person" who might want to challenge Orthodox home worship.

The private respondents requested relief that was similar to that requested by the government, but also requested the more severe remedy, in the alternative, of dissolution of the Petitioner, Village of Airmont.[1]

The district court, in a separate Order and Judgment, granted nominal damages to the private respondents, and ordered that "the plaintiffs (private respondents) request for injunctive relief is granted to the extent of that set forth in the Order and Judgment in the case of *United States v. Village of Airmont, et al.,* . . ." Resp. App. A-1.

Petitioner appealed, arguing that the relief was disproportionate, that the relief was not remedial, and that the district court usurped the role of local government regarding

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[1] This is pursuant to the district court's pretrial ruling that the Village's "incorporation could be declared null and void" if "discriminatory intent be found at the root of Airmont's incorporation." *LeBlanc-Sternberg v. Fletcher,* 763 F. Supp. 1246, 1252 (S.D.N.Y. 1991).

zoning decisions and thereby violated the principals of federalism.[2] The court of appeals rejected all of these arguments.

For the reasons stated herein, this Court should not grant the Petition for Writ of Certiorari.

REASONS FOR DENYING THE WRIT

I. THE COURT BELOW DID NOT VIOLATE PRINCIPALS OF FEDERALISM

Petitioner makes the grand pronouncement that the ruling of the Second Circuit of Appeals on remedies in this case constitutes "federal tyranny over state and local issues." Pet. 6. This ignores the fact that the admittedly broad equitable relief granted by the trial court, and affirmed by the Court of Appeals, was for the purpose of remedying the tyranny exercised by the Petitioner over the most fundamental religious liberties of the private respondents.[3]

The record is clear as to the shocking nature of the hostility toward Orthodox Jews exhibited by the founders of the Petitioner, Village of Airmont, through the organization they used to push for incorporation of the Village - the Airmont Civic Association (ACA). The Court of Appeals, in the first appeal of this case, noted the "plethora of statements attribut-

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[2] These arguments, in varying degrees, are the focus of Petitioner's argument for the granting of certiorari, together with the contention that a purported division exists in the circuits on the interplay between local zoning power and the Free Exercise Clause. This latter argument was also advanced in the Petitioner's last failed attempt to argue for the granting of certiorari in this case. *Village of Airmont v. LeBlanc-Sternberg*, Case No. 95-1381. *Cert. denied* at __U.S.__ (1996). Interestingly, that argument under the First Amendment, although presented in the arguments set forth in the newest Petition for Writ of Certiorari, is not reflected in any of the questions presented for review. Pet., i.

[3] The Court of Appeals, in affirming the trial court grant of injunctive relief, noted that "[t]his was an egregious constitutional violation, calling for a commensurate injunctive remedy." Pet. App. 9a.

able to ACA leaders who became Village officials, expressing anti-Orthodox Jewish Sentiments." 67 F.3d 430. The push for incorporation, and a Village zoning code, was not motivated by a "legitimate nondiscriminatory reason but rather an animosity toward Orthodox Jews as a group." *Id.*

The principals of federalism are surely not designated to camouflage unconstitutional discrimination against religion.

Moreover, the remedies in this case conform with the considerations of federalism implicit in this Court's ruling in *Milliken v. Bradley,* 433 U.S. 267 (1977) and *Missouri v. Jenkins,* __U.S__ , 115 S. Ct. 2038, 132 L.Ed. 2d 63 (1995).

In *Milliken v. Bradley*, this Court, in reviewing the appropriateness of a federal court plan of remedy for discrimination in the schools of Detroit, cited several decisions from Courts of Appeal where the remedies before the Supreme Court had in fact been approved by the Court of Appeal from several Circuits. The Supreme Court stated:

> Our reference to these cases is not to be taken as necessarily approving holdings not reviewed by this Court. However, they demonstrate that the District Court in the case now before us *did not break new ground in approving the School Board's proposed plan.*

Milliken, at 433 U.S. 286-87. ("Milliken II") (emphasis added).

Although the Petitioner characterizes the District Court Order and Judgment as radical and unreasonably intrusive, it is clear that the remedies ordered by the trial court "did not break new ground," but follow the well-worn paths of prior court decisions.

Zoning codes can be ordered modified to eradicate discrimination. *Huntington Branch NAACP v. Town of Huntington,* 844 F.2d 926, 942 (2nd Cir.) *aff'd,* 488 U.S. 15 (1988).

Permanent injunctions prohibiting future acts of illegal discrimination have been applied in other cases. *United States v. City of Parma,* 504 F. Supp. 913, 918-26 (N.D. Ohio 1980).

The monitoring of, and imposition of notification requirements upon, offending units of government was approved in *Dunn v. New York State Dept. of Labor*, 47 F.3d 485, 488-89 (2nd Cir. 1995).

Like the remedy approved in *Milliken II,* the Order and Judgment of the trial court did not break new ground, but was a restrained solution that was compatible with traditional discrimination remedies.

Further, this Court under the rule of *Milliken II* should give due deference to the trial court's "proximity to local conditions" in its fashioning of remedies to reverse discrimination. *Milliken* at 433 U.S. 287, n. 18. This trial concerns an area not too far distance from White Plains, New York federal courthouse. This broad deference to the trial court's plan militates against the granting of the writ in this case.

In *Missouri v. Jenkins*, __ U.S. __, 115 S. Ct. 2038, 132 L. Ed. 2d. 63 (1995) the Supreme Court reaffirmed its three-part test, originated under *Milliken II,* to guide district courts in the exercise of their remedial authority:

> In the first place, like other equitable remedies, the nature of desegregation remedy is to be determined by the nature and scope of the constitutional violation. (citations omitted).

132 L. Ed. 2d 80. Stated in other terms, the remedy should strike at the "most important indicia of [the discrimination in question]. " *Id.* In school desegregation cases the Court had determined that such "indicia" included student assignments, faculty, staff, transportation, extracurricular activities and facilities. *Id.*

In this case, the most important indicia of discrimination was determined by the Second Circuit Court of Appeals to be the zoning code itself: "It is a fair inference that the jury viewed the Village's enactment of that code, with provisions facilitating rejection of HPO applications, as an act that was designed to limit the number of home synagogues and that was thus about to make dwellings unavailable to Orthodox Jews because of their religion." *Sternberg,* at 67 F.3d 428. Thus it was appropriate that the District Court configure its remedy around the zoning code, and the ability of persons to worship in homes.

> Second, the decree must indeed be remedial in nature, that is, it must be designed as nearly as possible 'to restore the victims of discriminatory conduct to the position they would have occupied in the absence of such conduct.' (citations omitted).

Missouri, 132 L. Ed. 2d 80. The remedy in this case is precisely defined, the notice requirements are time-limited to a threshold of 5 years, and the plan restores the Respondents to a situation where religion cannot be used as the motivation behind zoning restrictions against group home worship.

Thus, the remedy in this case can be easily distinguished from that in the *Missouri* case where the remedy struck down was based on a "rationale [that] is not susceptible to any objective limitation." *Id.* at 87.

Third, this Court has required federal courts, in fashioning remedies, to "take into account the interest of state and local authorities in managing their own affairs, consistent with the Constitution." *Id.* at 80.

In this case the District Court was faced with a local governmental party that is reluctant, even at this late hour, to admit any wrongdoing, or to take responsibility for past religious discrimination. It is hard to envision a remedy that could have better accommodated the self-rule interests of the

Petitioner, while still accomplishing any remedial purpose at all, than that granted in this case. This is particularly true where, as here, the Petitioner did not submit to the trial court a carefully constructed alternative plan to those proposed by the respondents. Moreover, it is difficult to justify the attention of this Court to an increased accommodation to the interests of Petitioner where it argued to the trial court that the only appropriate remedy for the Respondents was to give them no real remedy at all.

II. THERE WAS ADEQUATE PROOF OF HARM UPON WHICH TO BASE THE EQUITABLE RELIEF AWARDED

Petitioner argues that review is necessary to cure "extraordinary" relief, which "dramatically" changes a local zoning code, despite the fact that, as claimed by Petitioner, "Respondents never claimed to be harmed by the Code." Pet. 10.

Such statements ignore the record. Respondents have consistently claimed to have suffered a constitutional and Fair Housing Act injury by reason of the actions of the Petitioner.[4] The Court of Appeals found that the zoning code was not only passed with a anti-religious animus, 67 F.3d 430, but also determined that the evidence showed that "the zoning ordinance will likely be applied in a discriminatory manner . . ." 67 F.3d 425. An ample evidentiary showing of harm is reflected by the record in this case.

A trial court's judgment on matters of relief where they are designed to cure a constitutional violation are owed defer-

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[4] The fact that the zoning code in this case was never enforced against the respondents is not dispositive of whether they suffered constitutional harm. This Court struck down a local law that targeted a religious group even though the law had never been enforced, in *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, __ U.S. __, 113 S.Ct. 2217 (1993).

ence on review. *Louisiana v. United States,* 380 U.S. 145, 154 (1965).

The extent of the violation will, to a great degree, determine the extent and scope of the remedy awarded. *Swann v. Charlotte-Mecklenburg Bd. Of Educ.*, 402 U.S. 1, 16 (1971).

These principals, inherently ones of flexibility and proportionality, when applied to a record where intentional discrimination has been determined to exist, make this a case inappropriate for review by this Court.

Further, while Petitioner cites cases where overly sweeping remedies were found excessive because less intrusive relief was available (Pet. 12), Petitioner made no argument to the trial court in this case as to what lesser injunctive relief would be appropriate, nor did they suggest their own alternate zoning modification plan.

The Court of Appeals noted that "there was no indication that the Village was going to make the changes necessary to guarantee that no constitutional violations occurred in the future," and that future violations were "likely." Pet. App. 11a.

On this kind of record, there is no basis for granting the Writ requested by Petitioner.

III. NO DIVISION EXISTS IN THE CIRCUITS REGARDING INTENTIONAL DISCRIMINATION THAT VIOLATES THE FREE EXECISE CLAUSE

Petitioner pronounces a division among the Circuits regarding the manner of resolving conflicts between local zoning regulations and religious activities restricted or prohibited by those regulations. While it is correct that some of the federal Circuits have adopted differing standards regarding the resolution of those kinds of conflicts, whatever their differences may be, such divisions are beside the point in this case. There is no division, "deep" or otherwise, concerning the invalidity of official government action under the Free Exercise Clause of the First Amendment when that action has, *as its object*, the targeting of religious belief or practice for dis-

criminatory treatment. The cases cited by Petitioner do not indicate otherwise.

In *Lakewood v. City of Lakewood*, 699 F.2d 303 (6th Cir.), *cert. denied* 464 U.S. 815 (1983) the subject zoning code effectively prohibited the construction of new churches in all residential areas, and limited such new construction to ten percent of the area of the city. *Id.*, 699 F.2d 307. However, as the Court emphasized:

> [T]he record does not indicate that the Congregation may not purchase an *existing* church or worship in any building in the remaining ninety percent of the City.

Id. (emphasis added). Thus, the effect of the zoning code was not to lock-out all religious worship or any particular mode of religious practice. But even more importantly, the Court noted that there was no contention of a discriminatory animus behind the zoning provision:

> Contrary to the Congregation's arguments, this case does not present a situation similar to *Keego Harbor Company v. City of Keego Harbor*, 657 F.2d 94 (6th Cir. 1981). In *Keego Harbor*, a zoning ordinance effectively excluded adult movie theaters from the city by setting severe spacing limitations. This court found the ordinance unconstitutional because the purpose and effect were to eliminate from the city the exercise of a first amendment right.

Id. (emphasis added).

Thus, the law in the Sixth Circuit supports that position that when the purpose and effect of zoning is to limit or exclude activities protected by the First Amendment, the regulation must satisfy strict scrutiny (i.e., *Keego Harbor),* but where the zoning regulation has no such purpose or effect

(i.e., where it is truly a "neutral law" of "general applicability," as in *Lakewood)* there is no duty to accommodate Free Exercise activities, particularly where "the activity has no religious or ritualistic significance for the . . ." religious objectors. *Lakewood,* 699 F.2d 306.

While Petitioner stresses the language in *Lakewood* that concluded that the effect of the zoning was simply to make the plaintiff's religious practice "more expensive" (Pet., 14), a circumstance not *per se* violative of Free Exercise, Petitioner ignores the broader context of that rule which finds its source in *Braunfeld v. Brown*, 366 U.S. 599 (1961). As the Court in *Lakewood,* points out:

> [T]he incidental economic burden [placed on the plaintiffs in Braunfield] was not unconstitutional because neither the *purpose* nor the *effect* of the law was to impede religious observation or to discriminate among religions.

699 F.2d 306 (emphasis added). In the instant case the Village of Airmont was incorporated for the express purpose of passing zoning restrictions, the *purpose* and *effect* of which was to discriminate against Orthodox Jewish practices. The enormous and impractical cost of building a free-standing synagogue on two acres of land was not an incidental financial effect on Respondents because of Airmont's "neutral" and "general applicable" zoning code; on the contrary, the enormous cost was the very tool used by the Village founders to *intentionally* discourage a disfavored religious group from moving in.

When a municipality purposefully plans to impose financial burdens on a disfavored religious practice as a means of discriminating against it, the Free Exercise Clause protects that religious practice, and will sustain the offending law "only in rare cases." *LeBlanc-Sternberg,* 67 F.3d 426, quoting from Church of the *Lukumi Bahalu Aye. Inc., v. City of*

Hialeah, 508, U.S. __, 113 S.Ct. 2217, 2233 (1992). "[A] law targeting religious beliefs as such is never permissible." *Id.*, 113 S.Ct. at 2227.

The facts in *Lakewood,* did not include the intentional targeting of religion, as is the situation in the instant case, and nothing in *Lakewood,* is inconsistent with the reasoning of this Court in *Lukumi Babalu* some ten years later.

Similarly, Petitioner's citation to *Grosz v. City of Miami Beach, Fla.*, 721 F.2d 729 (11th Cir. 1983), *cert. denied*, 469 U.S. 827 (1984) (Pet., 15), is of no avail in establishing a "division" among the circuits relevant to this case.

Petitioners contention that *Grosz* contains "nearly identical facts" (Pet., 15) is simply incorrect. As was the case in *Lakewood,* the *Grosz* facts did not involve a situation where a municipality intentionally targeted a religious practice for discrimination through its zoning code. Indeed, in *Grosz*, the court stated: "No one contends that zoning laws are based upon disagreement with religious tenets, or are aimed at impeding religion." 721 F.2d 738.

In the instant case, however, the Second Circuit specifically found that Petitioner passed its zoning code as an effort aimed at impeding the religious practices of Orthodox Jews. Further, the *Grosz* case was decided almost a decade before *Lukumi Babalu* and, therefore, any perceived division arising from the *Grosz* decision (or the *Lakewood* decision for that matter) is of dubious value as a basis for this Court to grant certiorari.

While the reasoning in *Grosz* still has influence in the Eleventh Circuit, that Circuit has itself distinguished *Grosz* from the *Lukumi Babalu* paradigm on the basis that the *Lukumi Babalu* case involved "a local law targeting" religious practice for discrimination. *First Assembly of God v. Collier County, Fla.,* 20 F.3d 419, 423 (11th Cir. 1994).

In *First Assembly of God*, the plaintiffs argued that the *Grosz* reasoning was no longer valid law because the *Grosz* reasoning was the basis of the trial court's decision in *Lukumi*

Babalu reasoning which was rejected by this Court. The Eleventh Circuit has concluded that, "[t]he Supreme Court reversed the application of *Grosz*, not the holding of *Grosz* itself or the reasoning behind it.," Id. 423 n.4.

Respondents respectfully submit that, whatever problems there may be with the reasoning used in *Grosz,* that reasoning is simply not applicable to a case of intentional discrimination, as is the case at bar.

Petitioner's reliance on *Islamic Center of Mississippi, Inc. v. City of Starkville, Miss.,* 840 F.2d 293 (5th Cir. 1988) is misplaced, since *Islamic Center* handily distinguishes both *Lakewood* and *Grosz* from the facts in that case. 840 F.2d 301-303.

Lastly, even assuming *arguendo* a division in the Eleventh, Sixth, Fifth and Second Circuits, there is another reason why such a division would be ultimately illusory. The decisions in *Lakewood, Grosz* and *Islamic Center* all pre-date this Court's decisions in *Employment Division v. Smith*, 494 U.S. 872 (1990) and *Lukumi Bahalu*. How the Eleventh or Sixth Circuits would decide cases whose facts implicate *Smith,* or *Lukumi Babalu,* is unknown, and undermines the argument made by Petitioner.

CONCLUSION

Respondents respectfully request that this Court deny the Petition for Writ of Certiorari.

Respectfully submitted,

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April 4, 1997

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORDER AND JUDGMENT
91 Civ. 2550 (GLG)

Rabbi Yitzchok LeBlanc-Sternberg, Chanie LeBlanc-Sternberg, Fred Walfish, Lewis Kamman, Park Avenue Synagogue, Inc.,

Plaintiffs,

– against –

Robert Fletcher & Nick Vertullo, Raymond Kane, Maureen Kendrick, and John C. Layne, Individually and in their capacity as Trustees of the Village of Airmont,

Defendants.

This case having been remanded by the Second Circuit Court of Appeals for the entry of judgment awarding the plaintiffs nominal damages and such injunctive and other relief as may be appropriate against the Village of Airmont, but having affirmed the judgment dismissing the private plaintiffs' claims against the individual defendants, it is ORDERED:

(1) that the Clerk shall enter judgment for each of the plaintiffs in the amount of $1.00 against the Village of Airmont; and

(2) that the plaintiffs' request for injunctive relief is granted to the extent of that set forth in the Order and Judgment in the case *of United States v. Village of Airmont, et al.*, 91 Civ. 8453 (GLG).

So Ordered.

Dated: April 25, 1996
White Plains, N.Y.

/s/_____
Gerald L. Goettel
U.S.D.J.